

Exhibit 4

CONFIDENTIAL - JOHN DITTAMI
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re: :
: Master File No.
Global Brokerage, Inc. : 1:17-cv-00916-RA
F/k/a FXCM, Inc. :
Securities Litigation :
----- :

REMOTE VIDEO DEPOSITION OF:
JOHN DITTAMI
THURSDAY, JANUARY 21, 2021

REPORTED BY:
SILVIA P. WAGE, CCR, CRR, RPR

<p style="text-align: right;">Page 30</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 Q. And who did you speak to about that?</p> <p>3 A. William Ahdout.</p> <p>4 Q. And what did you generally talk about</p> <p>5 with Mr. Ahdout with respect to the scope or goal</p> <p>6 of EES?</p> <p>7 A. Provide better execution for their</p> <p>8 retail customers, fill the gaps other liquidity</p> <p>9 providers were not billing.</p> <p>10 Q. Did you have an expectation that EES</p> <p>11 would generate profits for FXCM?</p> <p>12 A. Yes, I did.</p> <p>13 Q. And, in general terms, how did you</p> <p>14 expect EES to generate profits for FXCM?</p> <p>15 A. Be its trading activity and</p> <p>16 competition with the other LPs.</p> <p>17 Q. By "LPs" are you referring to</p> <p>18 liquidity providers?</p> <p>19 A. Yes.</p> <p>20 Q. And so did you intend for EES to</p> <p>21 provide liquidity for trading on FXCM's no</p> <p>22 dealing desk platform?</p> <p>23 A. I intended it to provide liquidity to</p> <p>24 FXCM, not the no dealing desk.</p> <p>25 Q. Take a step back.</p>	<p style="text-align: right;">Page 32</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 enter into an employment agreement?</p> <p>3 A. Yes, I did.</p> <p>4 Q. I'm going to introduce the next</p> <p>5 exhibit.</p> <p>6 (Deposition Exhibit 4, 9/4/09</p> <p>7 Employment Agreement Execution Copy stamped</p> <p>8 Original GLBR_00110697 to GLBR_00110712 marked</p> <p>9 Confidential, was marked for identification.)</p> <p>10 Q. Okay. This should be Exhibit 4. And</p> <p>11 please let me know when you can see it.</p> <p>12 A. It's not appeared. I'll click down</p> <p>13 and see if it appears.</p> <p>14 Q. Sometimes you have to -- if you click</p> <p>15 the folder again or refresh, it takes a minute.</p> <p>16 A. I'll try that. It's appeared.</p> <p>17 Q. Okay, great. Please take a minute to</p> <p>18 review Exhibit 4.</p> <p>19 While you do, I will state for the</p> <p>20 record Exhibit 4 is GLBR 110697.</p> <p>21 And, Mr. Dittami, let me know when</p> <p>22 you're ready.</p> <p>23 A. I'm ready.</p> <p>24 Q. Is this the employment agreement that</p> <p>25 you entered into with Forex Capital Markets LLC?</p>
<p style="text-align: right;">Page 31</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 Are you familiar with FXCM's no</p> <p>3 dealing desk platform?</p> <p>4 A. Yes.</p> <p>5 Q. And what is your general</p> <p>6 understanding of what that platform is?</p> <p>7 A. FXCM's core platform to provide to</p> <p>8 their retail clients liquidity that they gather</p> <p>9 from all their other liquidity providers, the</p> <p>10 competition.</p> <p>11 Q. Are there particular segments of</p> <p>12 FXCM's trading volume that you intended for EES</p> <p>13 to provide liquidity to?</p> <p>14 A. Yes.</p> <p>15 Q. What segments?</p> <p>16 A. UK business in particular.</p> <p>17 Q. Any other segments?</p> <p>18 A. Japanese, Japanese retail business.</p> <p>19 Basically, wherever liquidity was needed within</p> <p>20 FXCM, their institutional business.</p> <p>21 Q. Did you intend for EES to provide</p> <p>22 liquidity to FXCM's US retail business?</p> <p>23 A. It was the ultimate goal to, yes. It</p> <p>24 was my ultimate desire to.</p> <p>25 Q. When you were hired by FXCM, did you</p>	<p style="text-align: right;">Page 33</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 A. Yes, it is.</p> <p>3 Q. And have you heard Forex Capital</p> <p>4 Markets LLC referred to as FXCM US?</p> <p>5 A. I have -- after this. I had not at</p> <p>6 the time of this agreement, but I have</p> <p>7 subsequently USW.</p> <p>8 Q. And if I refer to FXCM US today, will</p> <p>9 you understand that to mean Forex Capital Markets</p> <p>10 LLC?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. If you look at the employment</p> <p>13 agreement in the first "whereas" clause on the</p> <p>14 first page you see the agreement reads, "The</p> <p>15 company and the executive desire to establish a</p> <p>16 new division of the company managing certain of</p> <p>17 the company's algorithmic endeavors which shall</p> <p>18 include but not limited to market making,</p> <p>19 proprietary trading and algorithmic execution</p> <p>20 services, (the venture)."</p> <p>21 Do you see that?</p> <p>22 A. Yes, I see that.</p> <p>23 Q. Do you understand "the venture"</p> <p>24 described in this agreement to refer to the</p> <p>25 trading system you described -- referred to as</p>

<p style="text-align: right;">Page 82</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 or invested. I'm just asking if that's referring</p> <p>3 to the same thing.</p> <p>4 MR. DAHAN: Whatever. Objection to</p> <p>5 form; whatever.</p> <p>6 MR. PAYKIN: Objection to form as</p> <p>7 well.</p> <p>8 THE WITNESS: Joe, am I to attempt to</p> <p>9 answer that, Joe?</p> <p>10 MR. PAYKIN: You can attempt to</p> <p>11 answer it.</p> <p>12 A. This refers to the language in the</p> <p>13 initial employment agreement with a proposed</p> <p>14 maximum investment into the employment agreement</p> <p>15 venture.</p> <p>16 Q. Okay. And as described in this</p> <p>17 letter, is it correct that only a portion of the</p> <p>18 \$3 million was actually used to fund EES?</p> <p>19 A. Only a portion was used to fund,</p> <p>20 although that was paid back in full. So no</p> <p>21 portion was used to fund. A portion was used and</p> <p>22 repaid.</p> <p>23 Q. Okay. And do you recall,</p> <p>24 approximately, how much of the \$3 million that</p> <p>25 portion was?</p>	<p style="text-align: right;">Page 84</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 independent venture and wanted to keep its clean</p> <p>3 ownership of intellectual property.</p> <p>4 THE STENOGRAPHER: "Clean ownership"</p> <p>5 I'm sorry?</p> <p>6 A. Clean ownership of intellectual</p> <p>7 property of all technology built. EFFEX wanted</p> <p>8 to make sure it was paid for so that we know the</p> <p>9 date or dispute of the ownership thereof.</p> <p>10 Q. And did you discuss this repayment</p> <p>11 with anyone at FXCM?</p> <p>12 A. I would have had to have speak to the</p> <p>13 accountants and get bills for exactly what the</p> <p>14 costs were.</p> <p>15 Q. Did you speak to any principals of</p> <p>16 FXCM about this repayment?</p> <p>17 A. I am sure I spoke to William, but I</p> <p>18 can't recall, specifically.</p> <p>19 Q. Do you know who first proposed this</p> <p>20 repayment, whether it was you or someone else?</p> <p>21 A. I don't know who first -- I don't</p> <p>22 know who first did it. I would have wanted it.</p> <p>23 Q. Okay. On the next page, you write,</p> <p>24 "In order to initiate its trading activities,</p> <p>25 EFFEX required a trading line of credit and a</p>
<p style="text-align: right;">Page 83</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 A. I don't recall. It was less than --</p> <p>3 less than a million, substantially less than a</p> <p>4 million. But I don't recall the exact amount.</p> <p>5 Q. Okay. And then in the same</p> <p>6 paragraph, you write or the letter says, "EFFEX</p> <p>7 repaid FXCM for software licenses, hardware costs</p> <p>8 and external consulting costs, which FXCM</p> <p>9 incurred during the employee/employer phase."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. And is that accurate?</p> <p>13 A. Yes.</p> <p>14 Q. Were those expenses and costs the</p> <p>15 same as the portion of the \$3 million initial</p> <p>16 investment that was used to fund the EES or were</p> <p>17 they something else?</p> <p>18 A. The description that I just answered</p> <p>19 in the previous question where less than a</p> <p>20 million was utilized was these items that were</p> <p>21 repaid noted in this sentence here.</p> <p>22 Q. Okay. And why did EFFEX repay FXCM</p> <p>23 for costs that FXCM incurred while you were an</p> <p>24 FXCM employee?</p> <p>25 A. Because EFFEX was becoming an</p>	<p style="text-align: right;">Page 85</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 brokerage account for its trading activities."</p> <p>3 Is that accurate?</p> <p>4 A. That's accurate, uh-huh.</p> <p>5 Q. And for what purposes did EFFEX need</p> <p>6 a trading line of credit and brokerage account?</p> <p>7 A. Every trading in foreign exchange</p> <p>8 requires credit between the two counterparts on</p> <p>9 the sides of the trade.</p> <p>10 Q. And, I think, we touched on this</p> <p>11 before, but to, I guess, clarify a bit.</p> <p>12 Did EES require a trading line of</p> <p>13 credit in a brokerage account for its trading</p> <p>14 activities?</p> <p>15 A. No, because EES at the time was part</p> <p>16 of FXCM. FXCM and EES is one counterpart. EFFEX</p> <p>17 and FXCM were two different counterparts and</p> <p>18 there is a credit risk between those to parties.</p> <p>19 Q. And what did EES use for the purposes</p> <p>20 of the trading line of credit in brokerage</p> <p>21 account?</p> <p>22 A. Initially, EES established a prime of</p> <p>23 prime account.</p> <p>24 MR. PAYKIN: EES or EFFEX, John?</p> <p>25 A. EFFEX established a prime of prime</p>

22 (Pages 82 - 85)

<p style="text-align: right;">Page 86</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 account. I apologize.</p> <p>3 Q. Thank you. I'm asking about EES.</p> <p>4 A. EES didn't have a prime -- EES was</p> <p>5 part of the FXCM entity. It was -- fell under</p> <p>6 FXCM's credit.</p> <p>7 Q. Did FXCM provide EFFEX with a</p> <p>8 \$2 million trading line of credit at some point</p> <p>9 in 2010?</p> <p>10 A. Yes.</p> <p>11 Q. And do you recall when?</p> <p>12 A. Mid 2010 right when it started --</p> <p>13 like, right when EFFEX started trading.</p> <p>14 Q. And was that transaction documented</p> <p>15 at the time that FXCM provided the line of</p> <p>16 credit?</p> <p>17 A. I'm sure it's documented in these</p> <p>18 prime of prime accounts.</p> <p>19 Q. And was it documented at the time</p> <p>20 that FXCM provided the line of credit?</p> <p>21 A. It would have to have been documented</p> <p>22 before they provided the line of credit.</p> <p>23 Q. Okay. And do you know how it was</p> <p>24 documented?</p> <p>25 A. I don't know. I don't know. It was</p>	<p style="text-align: right;">Page 88</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 Q. And in July of 2010, EFFEX</p> <p>3 discontinued using the prime of prime account; is</p> <p>4 that accurate?</p> <p>5 A. That's correct.</p> <p>6 Q. And at that time EFFEX had completed</p> <p>7 the process for establishing a prime brokerage</p> <p>8 account with Citi?</p> <p>9 A. That's correct.</p> <p>10 Q. Okay. Thank you.</p> <p>11 We've been going about an hour and a</p> <p>12 half. I have a couple more very quick documents</p> <p>13 and then we'll take a break.</p> <p>14 Does that sound alright?</p> <p>15 MR. PAYKIN: Yeah, that's fine.</p> <p>16 A. You said you have an hour and a half</p> <p>17 you said?</p> <p>18 MR. PAYKIN: Not an hour and a half.</p> <p>19 He's going to do a couple more documents and then</p> <p>20 take a break.</p> <p>21 THE WITNESS: Ah, fine.</p> <p>22 Q. Okay. I'm introducing what should be</p> <p>23 Exhibit 12.</p> <p>24 (Deposition Exhibit 12, 4/8/10</p> <p>25 Secured Promissory Note Execution copy E</p>
<p style="text-align: right;">Page 87</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 a loan agreement of some sort. It was part of</p> <p>3 the loan agreement, but it wasn't a loan</p> <p>4 agreement. So it's misleading.</p> <p>5 Q. And I'll ask you to please read the</p> <p>6 rest of this paragraph on Page 2 beginning with,</p> <p>7 "During this interim period, FXCM posted</p> <p>8 \$2 million," and continuing from there. I'll</p> <p>9 just ask you to read that to yourself and let me</p> <p>10 know when you're ready.</p> <p>11 A. I'm ready.</p> <p>12 Q. Is this an accurate summary of the</p> <p>13 approximate timeline for when FXCM provided EFFEX</p> <p>14 line of credit and access to a prime of prime</p> <p>15 account?</p> <p>16 A. It says, "During the interim period."</p> <p>17 I don't know what the "interim period" is but...</p> <p>18 Yes, during the interim period of</p> <p>19 transition in 2010, yes, it was provided in that</p> <p>20 period.</p> <p>21 Q. Okay. And this entire timeline as</p> <p>22 provided in that section of the paragraph is</p> <p>23 accurate?</p> <p>24 A. In June it was removed is accurate,</p> <p>25 yes.</p>	<p style="text-align: right;">Page 89</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 Capital-000026 to E Capital-000033, was marked</p> <p>3 for identification.)</p> <p>4 Q. Please let me know when you can see</p> <p>5 it.</p> <p>6 A. I see it.</p> <p>7 Q. Okay. And take a minute to review.</p> <p>8 I'm just going to have some general questions</p> <p>9 about this document for you.</p> <p>10 MR. BAKER: For the record,</p> <p>11 Exhibit 12 is E Capital 26.</p> <p>12 Q. Let me know when you're ready.</p> <p>13 A. I'm ready.</p> <p>14 Q. Is this a secured promissory note for</p> <p>15 \$2 million between EFFEX and FXCM US?</p> <p>16 A. It does.</p> <p>17 Q. And was this note made in connection</p> <p>18 with the \$2 million line of credit that FXCM</p> <p>19 provided to EFFEX in 2010?</p> <p>20 A. This transitioned into that backing</p> <p>21 to the \$2 million line of credit, yes. I can't</p> <p>22 remember the details, but this became the secured</p> <p>23 promissory note underlying that line of credit,</p> <p>24 yes.</p> <p>25 Q. Okay. And did you sign this note on</p>

23 (Pages 86 - 89)

<p style="text-align: right;">Page 98</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 Agreement E Capital 0000050 & E Capital 0000051,</p> <p>3 was marked for identification.)</p> <p>4 Q. It should be No. 15. And you know</p> <p>5 the drill now. Please just let me know when you</p> <p>6 can see it.</p> <p>7 A. I see it.</p> <p>8 Q. Okay. And take a minute to review.</p> <p>9 As you do, for the record, I'll note</p> <p>10 Exhibit 15 is E Capital 50. It's 5-0.</p> <p>11 And, Mr. Dittami, let me know when</p> <p>12 you're ready.</p> <p>13 A. I'm ready.</p> <p>14 Q. Is this an Option Agreement between</p> <p>15 yourself and FXCM US dated April 14, 2010?</p> <p>16 A. It is.</p> <p>17 Q. And did you sign this agreement?</p> <p>18 A. Yes.</p> <p>19 Q. Did William Ahdout sign this</p> <p>20 agreement on behalf of FXCM US?</p> <p>21 A. Yes.</p> <p>22 Q. Did this Option Agreement give FXCM</p> <p>23 the right to purchase a 70 percent share of EFFEX</p> <p>24 for \$1?</p> <p>25 A. I don't believe that it was</p>	<p style="text-align: right;">Page 100</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 A. No, they expressed they did not want</p> <p>3 to maintain the 70/30 split.</p> <p>4 Q. Under the second "whereas" clause</p> <p>5 between the third paragraph on the first page, it</p> <p>6 states that, "FXCM has loaned to EFFEX the sum of</p> <p>7 \$2 million pursuant to that secured promissory</p> <p>8 note dated the date here of (the note) on terms</p> <p>9 more favorable than Dittami would have obtained</p> <p>10 in an arm's length transaction."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Is that referring to the same note we</p> <p>14 looked at earlier today?</p> <p>15 A. Yes.</p> <p>16 Q. And is it accurate to say that the</p> <p>17 terms of the notes were more favorable than you</p> <p>18 would have been able to obtain in an arm's length</p> <p>19 transaction?</p> <p>20 A. I don't know if it was more favorable</p> <p>21 or not.</p> <p>22 Q. Did you or EFFEX execute any other</p> <p>23 versions of this agreement with any FXCM entity?</p> <p>24 A. I don't recall them being executed.</p> <p>25 There were discussions for sure about future, you</p>
<p style="text-align: right;">Page 99</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 consummated. But that was the writing in the</p> <p>3 document.</p> <p>4 Q. Was it your intent in executing this</p> <p>5 option to maintain the 70/30 split of trading</p> <p>6 profits originally set out in the management</p> <p>7 bonus in your employment agreement?</p> <p>8 A. No.</p> <p>9 Q. Did you have any discussions with</p> <p>10 anyone at FXCM about continuing the 70/30 split</p> <p>11 of trading profits from your employment</p> <p>12 agreement?</p> <p>13 A. Yes.</p> <p>14 Q. And who did you speak to about that?</p> <p>15 A. It would have been William Ahdout and</p> <p>16 Ken Grossman.</p> <p>17 Q. And at the time -- when did you have</p> <p>18 those discussions?</p> <p>19 A. It would have been in 2010.</p> <p>20 Q. And did Mr. Ahdout and Mr. Grossman</p> <p>21 express to you that they also wanted to -- sorry,</p> <p>22 let me strike that.</p> <p>23 Okay. Did Mr. Ahdout or Mr. Grossman</p> <p>24 express to you that they also wanted to maintain</p> <p>25 the 70/30 split of trading profits?</p>	<p style="text-align: right;">Page 101</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 know, work together, but I don't recall anything</p> <p>3 being executed.</p> <p>4 Q. And did you or EFFEX execute any</p> <p>5 other agreement with any FXCM entity that you</p> <p>6 would refer to as an options agreement?</p> <p>7 A. I don't believe there was another</p> <p>8 agreement executed. This idea was thrown out</p> <p>9 early.</p> <p>10 Q. Okay. I'm introducing the next</p> <p>11 exhibit.</p> <p>12 (Deposition Exhibit 16, 4/13/10</p> <p>13 e-mail from John Dittami to David Sassoon and</p> <p>14 William Ahdout and attachment GLBR_00218040 to</p> <p>15 GLBR_00218042 marked Confidential, was marked for</p> <p>16 identification.)</p> <p>17 Q. This will be Exhibit 16. And please</p> <p>18 let me know when you can see it.</p> <p>19 A. I see it.</p> <p>20 Q. It's actually loading a little bit</p> <p>21 ahead of me.</p> <p>22 Okay. Please take a minute to</p> <p>23 review.</p> <p>24 MR. BAKER: For the record,</p> <p>25 Exhibit 16 is GLBR 218040 and an attachment which</p>

<p style="text-align: right;">Page 126</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 credit inside my credit prime of prime account,</p> <p>3 like, I can't say...</p> <p>4 Q. So, when you refer to "the loan" and</p> <p>5 the "line of credit," are those two different</p> <p>6 things in your mind? I just want to make sure</p> <p>7 we're talking about the same thing.</p> <p>8 A. In my mind, there was -- "loan" is a</p> <p>9 poor word. It's a line of credit, line of credit</p> <p>10 required to trade is how I think of the \$2</p> <p>11 million.</p> <p>12 Q. And is the line of credit what you're</p> <p>13 referring to as a "loan" in this e-mail?</p> <p>14 A. Yes, the loan doc, yes, it is, yes.</p> <p>15 Q. And so when you say, "we are setting</p> <p>16 it to the \$2 million," were you saying that at</p> <p>17 this point at time of this e-mail you were</p> <p>18 setting the amount of the line of credit?</p> <p>19 A. Again, I don't -- you know, it could</p> <p>20 have -- I'd be guess -- I don't want to guess.</p> <p>21 It's line of credit or the loan. It's one or the</p> <p>22 other. I viewed them as the same, but I can't</p> <p>23 infer the details from this.</p> <p>24 Q. Do you recall if the full \$2 million</p> <p>25 line of credit that you've been discussing was</p>	<p style="text-align: right;">Page 128</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 somehow leaves its 70 percent share in to</p> <p>3 support/fund trading and the upsides are that</p> <p>4 this is clearly recouped when option is exercised</p> <p>5 and accounted for as such. Downside is perhaps</p> <p>6 shows greater level of interest."</p> <p>7 By the "option," were you referring</p> <p>8 to the Option Agreement we looked at earlier</p> <p>9 today?</p> <p>10 A. I don't believe so. I believe this</p> <p>11 is that negotiated -- that negotiated discussions</p> <p>12 we were having as discussed earlier -- as</p> <p>13 mentioned earlier, continued negotiation.</p> <p>14 Q. I'm sorry. I think we talked over</p> <p>15 each other there.</p> <p>16 What did you say?</p> <p>17 A. I just said continued negotiation.</p> <p>18 Q. Okay, thank you.</p> <p>19 And the e-mail where you say,</p> <p>20 "downside is perhaps shows greater level of</p> <p>21 interest," what audience were you describing</p> <p>22 showing "a greater level of interest" to?</p> <p>23 A. I don't -- I can't recall.</p> <p>24 Q. And by "level of interest," were you</p> <p>25 referring to FXCM's ownership interest in Effex?</p>
<p style="text-align: right;">Page 127</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 ever placed into EFFEX's prime of prime account?</p> <p>3 MR. DAHAN: Objection to form.</p> <p>4 A. I don't know if the funds were ever</p> <p>5 placed there or if they were represented as an</p> <p>6 accounting entry. I don't know the mechanics of</p> <p>7 the prime of prime on FXCM's side.</p> <p>8 Q. Okay. In the next paragraph in your</p> <p>9 e-mail you write, "I was confused on how the</p> <p>10 capital that I replaced to fund trading should be</p> <p>11 handled in conjunction with a payment on profits</p> <p>12 to FXCM."</p> <p>13 By "payment on profits," were you</p> <p>14 referring to the 70/30 split of EFFEX's trading</p> <p>15 profits between Effex and FXCM?</p> <p>16 MR. DAHAN: Object to the form.</p> <p>17 A. No, I'm referring to the payments --</p> <p>18 I don't know if -- I don't know what I'm</p> <p>19 referring; the payments the \$21 premium payments.</p> <p>20 Q. Were those 21 per million -- \$21 per</p> <p>21 million payments denoted as a payment on profits</p> <p>22 in anywhere that you recall?</p> <p>23 A. No. It's a misnomer.</p> <p>24 Q. In the next paragraph you say, "There</p> <p>25 are basically two choices. One is that FXCM</p>	<p style="text-align: right;">Page 129</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 A. FXCM had no ownership in Effex. So I</p> <p>3 don't know if -- I don't know. Maybe you can</p> <p>4 rephrase the question, I guess.</p> <p>5 Q. Sure. Do you know what you were</p> <p>6 referring to by "level of interest"?</p> <p>7 A. No.</p> <p>8 Q. And in the next paragraph you write,</p> <p>9 "The other option is that the account for trading</p> <p>10 is fully funded by my profit share percentage and</p> <p>11 then I just create liability to Effex to myself</p> <p>12 so that in event of option exercise, this amount</p> <p>13 doesn't get double dipped."</p> <p>14 And when you say, "profit share</p> <p>15 percentage," what were you referring to here?</p> <p>16 A. Again, this is that me attempting to</p> <p>17 negotiate with FXCM that what we never came to</p> <p>18 terms on, same economic terms trying to negotiate</p> <p>19 a structure.</p> <p>20 Q. And by, "in the event of option</p> <p>21 exercise," were you referring to the option</p> <p>22 agreement or discussions about the option</p> <p>23 agreement that we looked at earlier today?</p> <p>24 A. I'm referring to the -- a proposed in</p> <p>25 negotiation structure, not that specific option</p>

<p style="text-align: right;">Page 202</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 -- this.</p> <p>3 Q. So, if neither of you wanted this, do</p> <p>4 you have an understanding of why you signed it?</p> <p>5 A. No. You asked --</p> <p>6 MR. DAHAN: Wait. Sorry, "signed"</p> <p>7 what? Signed options back in --</p> <p>8 MR. BAKER: Signed the</p> <p>9 acknowledgment --</p> <p>10 MR. DAHAN: Oh, okay.</p> <p>11 MR. BAKER: -- Exhibit 41.</p> <p>12 MR. DAHAN: But I don't think he said</p> <p>13 that none of us one wanted the acknowledgment</p> <p>14 signed. I don't think that's what he said.</p> <p>15 A. That's not what I was saying, yeah.</p> <p>16 Q. Did you -- sorry. Then can you</p> <p>17 clarify what you meant by, none of us would want</p> <p>18 this?</p> <p>19 A. None of us wanted an old document</p> <p>20 that wasn't in effect and wasn't in play, that</p> <p>21 was one of a thousand negotiated -- you know, God</p> <p>22 knows how many discussions including the ones</p> <p>23 discussed -- you know, it wasn't in play.</p> <p>24 There's -- no option existed, so just cleaning up</p> <p>25 all of our documentation, making sure everything</p>	<p style="text-align: right;">Page 204</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 involving CFTC and, you know, investigating Effex</p> <p>3 as well, I believe.</p> <p>4 Q. Okay. I think now is probably a good</p> <p>5 time for a lunch break.</p> <p>6 THE VIDEOGRAPHER: Okay. Let me read</p> <p>7 us off.</p> <p>8 The time is, approximately, 1:26 p.m.</p> <p>9 We are going off the record.</p> <p>10 (Lunch recess taken 1:26 to</p> <p>11 p.m.)</p> <p>12 THE VIDEOGRAPHER: The time is,</p> <p>13 approximately, 2:03 p.m. We are back on the</p> <p>14 record.</p> <p>15 Q. Welcome back, Mr. Dittami. I've</p> <p>16 introduced another document.</p> <p>17 (Deposition Exhibit 42, 7/6/10 e-mail</p> <p>18 from John Dittami to William Ahdout GLBR_00188143</p> <p>19 marked Confidential, was marked for</p> <p>20 identification.)</p> <p>21 Q. This is Exhibit 42. Please let me</p> <p>22 know when you can see it.</p> <p>23 A. It's open.</p> <p>24 Q. Okay. And take a minute to review.</p> <p>25 MR. BAKER: And for the record,</p>
<p style="text-align: right;">Page 203</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 is in order and accurate and correct.</p> <p>3 Q. So do you recall any particular</p> <p>4 reason that you or FXCM had for executing this</p> <p>5 document in November and December of 2015?</p> <p>6 MR. DAHAN: Asked and answered.</p> <p>7 Q. You can still answer.</p> <p>8 A. You know, we wanted it clean and</p> <p>9 clear. I mean, the document ever existed. This</p> <p>10 was when I was under CFTC, et cetera. So this</p> <p>11 document wasn't correct. We never implemented.</p> <p>12 Why there's signature on it, I don't</p> <p>13 know. But this was never in play. We never</p> <p>14 viewed it in play. We needed to make that very</p> <p>15 clear.</p> <p>16 Q. And when you say, you were under</p> <p>17 CFTC, et cetera, what are you referring to there?</p> <p>18 A. I had that subpoena from the CFTC for</p> <p>19 retail fraud, the deposition we discussed</p> <p>20 earlier, that I was a part of. I didn't know</p> <p>21 this document even existed until then.</p> <p>22 Q. And you've talked about, I think, in</p> <p>23 re: Retail fraud.</p> <p>24 Was that matter regarding FXCM?</p> <p>25 A. Matter regarding FXCM, matter</p>	<p style="text-align: right;">Page 205</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 Exhibit 42 is GLBR 188143.</p> <p>3 A. Yes.</p> <p>4 Q. And my first question to you will be,</p> <p>5 is this an e-mail from yourself to Mr. Ahdout and</p> <p>6 Mr. Rosenfeld?</p> <p>7 A. Yes, it is.</p> <p>8 Q. And in that e-mail you write, "Can we</p> <p>9 retro back to beginning of our trading? The per</p> <p>10 MM charge to \$23 from the \$21 looking closer. I</p> <p>11 think \$23 is more appropriate."</p> <p>12 Were you referring to the rate per</p> <p>13 million that Effex paid to FXCM for order flow?</p> <p>14 A. Yes.</p> <p>15 Q. And were you proposing a retroactive</p> <p>16 change in the rate of payment?</p> <p>17 A. Yes.</p> <p>18 Q. And were you asking Mr. Ahdout if he</p> <p>19 could retroactively change the rate that Effex</p> <p>20 was paying FXCM for order flow from \$21 per</p> <p>21 million to \$23 per million?</p> <p>22 A. Yes.</p> <p>23 Q. Were there other occasions on which</p> <p>24 you discussed retroactively changing the rate</p> <p>25 what Effex was paying FXCM for order flow?</p>

52 (Pages 202 - 205)

<p style="text-align: right;">Page 210</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 it says that E is from or the sender.</p> <p>3 A. Then, yes, then Column E is my name</p> <p>4 to Joshua.</p> <p>5 Q. Okay. And in that line you write,</p> <p>6 "This month in June FXCM's share was less than</p> <p>7 21. May and April more."</p> <p>8 A. Yes, I see that.</p> <p>9 Q. What were you referring to by "FXCM's</p> <p>10 share"?</p> <p>11 A. I'm guessing I was benchmarking to a</p> <p>12 change what it would have been compared to the</p> <p>13 employment agreement. I guess that's what I'm</p> <p>14 doing, tracking how -- tracking if I'm better off</p> <p>15 or worse off. It's a guess. It's back 2010.</p> <p>16 Q. And when you're referring to the</p> <p>17 employment agreement, are you referring to the</p> <p>18 70/30 profit sharing split from the employment</p> <p>19 agreement?</p> <p>20 A. Yes, I would be comparing my -- how</p> <p>21 I'm doing versus my last negotiated set.</p> <p>22 Q. Okay. And when you say 21, were you</p> <p>23 referring to the rate per million that Effex was</p> <p>24 paying FXCM for order flow for these months?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 212</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 Q. And then for May and April, it went</p> <p>3 the other way?</p> <p>4 A. Yeah. Well, this was less more --</p> <p>5 yeah. Every month is different is what I'm</p> <p>6 telling him.</p> <p>7 Q. And when you say, "FXCM's share was</p> <p>8 less than 21 in this month in June, May and April</p> <p>9 more," were you referring to the actual payments</p> <p>10 that Effex made to FXCM?</p> <p>11 A. I don't know if I had made payments</p> <p>12 on that date. What I was -- I think -- again,</p> <p>13 this is an old e-mail -- old messaging. But I</p> <p>14 think what I'm saying is we negotiated \$21 per</p> <p>15 million from the two months previous when I was</p> <p>16 an employee at 70 percent. Josh is the</p> <p>17 accountant for having to figure out how to bill</p> <p>18 me invoice, et cetera.</p> <p>19 I think what I'm saying is, you don't</p> <p>20 need my books. We're not -- we're separate at</p> <p>21 the top and you don't need to question the deal.</p> <p>22 It was good, you know, worked out well for you</p> <p>23 one month and bad for you these months. That's</p> <p>24 what I'm reading here.</p> <p>25 Q. And with respect to the deal working</p>
<p style="text-align: right;">Page 211</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 Q. And did you mean that based on a</p> <p>3 70 percent share of Effex's trading profits, FXCM</p> <p>4 should receive less than 21 million -- 21 per</p> <p>5 million for June and July 2010 and more than 21</p> <p>6 per million for April and May 2010?</p> <p>7 A. No, that's not what I said. In the</p> <p>8 conversation I said, what do you need to look at</p> <p>9 my books for. But I offered up -- but I offered</p> <p>10 up -- clearly, I'm offering up how we're doing</p> <p>11 relative to this, to the previous benchmark. But</p> <p>12 you see in that same conversation, saying what do</p> <p>13 you need my books for.</p> <p>14 Q. Okay. And when you say, FXCM's share</p> <p>15 was less than 21 -- sorry, "This month and June</p> <p>16 FXCM's share was less than 21," did you mean that</p> <p>17 70 -- were you referring to 70 percent of Effex's</p> <p>18 trading profits at that time were less than \$21</p> <p>19 per million?</p> <p>20 A. I believe I was implying that FXCM</p> <p>21 made out in the negotiation of \$21 per million,</p> <p>22 which is what you do when you need to prepare to</p> <p>23 adjust to try to negotiate. I believe I'm</p> <p>24 applying that they got a good bargain on our</p> <p>25 transition.</p>	<p style="text-align: right;">Page 213</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 out, good for FXCM or good for Effex for these</p> <p>3 months, is that something that you would have</p> <p>4 discussed with Mr. Ahdout at this time?</p> <p>5 A. I'm sure I would have discussed it</p> <p>6 with him whenever it suited my negotiation needs.</p> <p>7 I don't know if I discuss it right at this time.</p> <p>8 I am sure I would have discussed it if it was</p> <p>9 going against me.</p> <p>10 Q. Okay. I'm going to show had you the</p> <p>11 next document.</p> <p>12 (Deposition Exhibit 43, e-mail string</p> <p>13 GLBR_00188166 & GLBR_00188167 marked</p> <p>14 Confidential, was marked for identification.)</p> <p>15 A. Open, No. 43.</p> <p>16 Q. Okay. Take a minute to review this</p> <p>17 document.</p> <p>18 As you do, for the record, Exhibit 43</p> <p>19 is GLBR 188166.</p> <p>20 Mr. Dittami, just let me know when</p> <p>21 you're ready.</p> <p>22 A. I'm ready.</p> <p>23 Q. Is this the e-mail chain from</p> <p>24 yourself to Mr. Rosenfeld copying Mr. Filko,</p> <p>25 Aaron Harding and Mr. Ahdout?</p>

<p style="text-align: right;">Page 214</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 A. It is, yes.</p> <p>3 Q. And looking at the e-mail from</p> <p>4 Mr. Rosenfeld, the second e-mail from the bottom</p> <p>5 on Page 1 and Mr. Rosenfeld writes, "Does 16 per</p> <p>6 mill seem like the figure we'll have to go for</p> <p>7 Oct?"</p> <p>8 A. I see that.</p> <p>9 Q. Did you understand that to mean the</p> <p>10 16 per million to refer to the rate for Effex's</p> <p>11 payments to FXCM for order flow?</p> <p>12 A. I refer to it discussing, yeah, if we</p> <p>13 can change it.</p> <p>14 Q. And that's for the month of</p> <p>15 October 2010?</p> <p>16 A. That's what the e-mail says, yes.</p> <p>17 That would be -- from that point forth is what</p> <p>18 would have been under discussion.</p> <p>19 Q. And do you recall having discussions</p> <p>20 with Mr. Rosenfeld or other people at FXCM about</p> <p>21 setting the rate for Effex's payments to FXCM for</p> <p>22 order flow for October 2010?</p> <p>23 A. Any negotiations I had would have</p> <p>24 been with William and, you know, Drew.</p> <p>25 Discussions with Joshua Rosenfeld would be --</p>	<p style="text-align: right;">Page 216</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 likely swing it again at \$21 per MM and chew the</p> <p>3 reserve down to zero."</p> <p>4 Were you telling Mr. Ahdout that</p> <p>5 Effex could pay FXCM \$21 per million for order</p> <p>6 flow for this month, but doing so would cause</p> <p>7 Effex to lose money?</p> <p>8 A. I didn't -- I am saying we can pay</p> <p>9 them \$21. I did not say it was because Effex was</p> <p>10 losing money. I said --</p> <p>11 Q. What did you mean -- sorry, go ahead.</p> <p>12 A. It says, I am building reserves for</p> <p>13 my Citi prime broker account. They're no longer</p> <p>14 give me prime of prime. The loan is closed.</p> <p>15 Good time to negotiate. I have to fund my own</p> <p>16 capital. I'm saying, I got to fund my own</p> <p>17 capital. Citi is requiring me to put a million</p> <p>18 dollars up there, you know, I can't afford to pay</p> <p>19 you \$21 per million and fund my capital at Citi.</p> <p>20 I wanted to negotiate lower than 14. Obviously,</p> <p>21 we didn't negotiate a 14, so they didn't accept</p> <p>22 that.</p> <p>23 Q. And what I'm getting at is I guess</p> <p>24 the connection between paying \$21 per million and</p> <p>25 in your words here, "chew the reserve down to</p>
<p style="text-align: right;">Page 215</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 he's the guy who has to create an invoice and his</p> <p>3 job is to, you know, police on paying and when I</p> <p>4 should be charged so...</p> <p>5 I wouldn't be negotiating with Joshua</p> <p>6 for payment. But with William and Drew, if I'm</p> <p>7 going to make a change, yes, at least, what</p> <p>8 negotiating means.</p> <p>9 Q. And do you recall if the 16 per</p> <p>10 million figure originated with you or with</p> <p>11 someone at FXCM?</p> <p>12 A. I don't know where it originated. In</p> <p>13 this e-mail, I'm actually asking for 14.</p> <p>14 Q. And that was my next question. When</p> <p>15 you say in your e-mail responding to that, that</p> <p>16 I'd rather go 14, are you saying you rather Effex</p> <p>17 paid \$14 per million for order flow for</p> <p>18 October 2010?</p> <p>19 A. It looks like I'm trying to negotiate</p> <p>20 better than 14, yes.</p> <p>21 Q. And on the top of Page 1, you write</p> <p>22 to William; is that Mr. Ahdout?</p> <p>23 A. Yes.</p> <p>24 Q. And you write, "We need to figure out</p> <p>25 a per MM for October. Looking closely we can</p>	<p style="text-align: right;">Page 217</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 zero," or is that what you referred to as the</p> <p>3 funding for your own capital?</p> <p>4 A. Yes, it says, our reserve is capital</p> <p>5 for Citi's trading of a million dollar in the</p> <p>6 next sentence.</p> <p>7 Q. And so -- sorry go ahead.</p> <p>8 And so are you saying that paying \$21</p> <p>9 per million would result in "chewing" the reserve</p> <p>10 down, meaning, that the reserve that Effex was</p> <p>11 using to fund its trading?</p> <p>12 A. There's less money to pay to fund my</p> <p>13 trading when I pay more in fees.</p> <p>14 Q. And what I'm getting at so is the</p> <p>15 connection between paying \$21 per million, is</p> <p>16 that directly resulting in "chewing the reserve</p> <p>17 down to zero"?</p> <p>18 MR. DAHAN: Objection to form.</p> <p>19 Objection to form.</p> <p>20 You can answer.</p> <p>21 A. I'm saying paying more -- paying less</p> <p>22 money as far as Effex Capital is concerned allows</p> <p>23 Effex to grow its capital accounts with Citi, who</p> <p>24 is extended -- who is now its credit providing.</p> <p>25 I'm no longer getting benefits from FXCM in</p>

55 (Pages 214 - 217)

<p style="text-align: right;">Page 218</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 credit, et cetera. I need to fund my own</p> <p>3 accounts with my own money. I'm negotiate -- I'm</p> <p>4 trying to negotiate him down to 14. He didn't</p> <p>5 agree.</p> <p>6 Q. And so I'll just -- I'll try one more</p> <p>7 time to clarify my question and then if maybe if</p> <p>8 we're not connecting, we can move on.</p> <p>9 But you say, "We can likely swing it</p> <p>10 again at \$21 per million, meaning, that Effex can</p> <p>11 pay FXCM \$21 per million for order flow," and you</p> <p>12 say, "and chew the reserve down to zero."</p> <p>13 And I'm asking if those two things</p> <p>14 were connected in your mind at this time?</p> <p>15 A. In the -- yes, it went -- when you</p> <p>16 pay more fees, you have less earnings and</p> <p>17 capital, which is the reserve that funds your</p> <p>18 capital that's required Effex to keep capital at</p> <p>19 Citi. If I pay less fees, I have more income and</p> <p>20 I can accumulate more capital with my Citi prime</p> <p>21 brokerage. If I pay more, I have less capital to</p> <p>22 fund my Citi trading, which has a \$1 million</p> <p>23 minimum plus additional reserves for taking risk</p> <p>24 and carrying risk, and you have a minimum capital</p> <p>25 and then you have to fund your positions. If I</p>	<p style="text-align: right;">Page 220</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 authority.</p> <p>3 Q. Okay.</p> <p>4 A. And at FXCM, I'm not sure how it is,</p> <p>5 you know.</p> <p>6 Q. Thank you. That was going to be my</p> <p>7 next question.</p> <p>8 And so was the rate that Effex should</p> <p>9 pay FXCM for order flow for a given month</p> <p>10 determined by an agreement between you and</p> <p>11 Mr. Ahdout?</p> <p>12 A. It was determined by the services</p> <p>13 agreement.</p> <p>14 MR. DAHAN: Objection, form.</p> <p>15 Q. Were you aware of anyone else at FXCM</p> <p>16 who was involved in the negotiations over the</p> <p>17 rate that Effex should pay FXCM for order flow</p> <p>18 for a given month?</p> <p>19 A. William would be my primary first</p> <p>20 contact and I would, you know, pitch it to Drew</p> <p>21 when I felt like I was close enough to be able to</p> <p>22 make a change, try to negotiate, William and Drew</p> <p>23 effectively.</p> <p>24 Q. Okay. I'm going to show you the next</p> <p>25 document.</p>
<p style="text-align: right;">Page 219</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 pay more money, I have less money to fund my</p> <p>3 positions. If I pay less money, I have more</p> <p>4 money to fund my positions.</p> <p>5 Q. Okay. At the last sentence of that</p> <p>6 paragraph starting in the second to last line you</p> <p>7 write, "The other alternative is we go halfway at</p> <p>8 \$17.50 and cut the reserve a little but give us a</p> <p>9 whole other month to work out how this will shake</p> <p>10 out."</p> <p>11 Is 17.50 halfway between \$14 the</p> <p>12 proposed and \$21?</p> <p>13 MR. DAHAN: Objection to form. I</p> <p>14 imagine --</p> <p>15 A. It's, approximately, halfway, yes.</p> <p>16 MR. DAHAN: Yes.</p> <p>17 Q. From Effex's perspective, who had the</p> <p>18 final say on determining the rate that Effex</p> <p>19 should pay FXCM for order flow for a given month?</p> <p>20 A. It was a negotiation. They either</p> <p>21 agreed to it or didn't agree to it. The final</p> <p>22 say is a negotiation between two parties and our</p> <p>23 service contract.</p> <p>24 Q. Who had the authority --</p> <p>25 A. Effex -- at Effex I had the</p>	<p style="text-align: right;">Page 221</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 (Deposition Exhibit 44, e-mail string</p> <p>3 and attachment GLBR_00184107 & GLBR_00184108</p> <p>4 marked Confidential, was marked for</p> <p>5 identification.)</p> <p>6 Q. Okay. Let me know when you can see</p> <p>7 Exhibit 44.</p> <p>8 A. I can see Exhibit 44.</p> <p>9 Q. Take a minute to review this</p> <p>10 document.</p> <p>11 MR. BAKER: For the record,</p> <p>12 Exhibit 44 is GLBR 184107 and an attachment which</p> <p>13 is GLBR 184108.</p> <p>14 Q. Mr. Dittami, just let me know when</p> <p>15 you're ready.</p> <p>16 A. I'm ready.</p> <p>17 Q. Is this an e-mail from Josh Rosenfeld</p> <p>18 to yourself copying two other individuals and</p> <p>19 attaching with an attachment?</p> <p>20 A. It is.</p> <p>21 Q. In your second e-mail here, you</p> <p>22 write, "Please provide me with updated invoice</p> <p>23 for services for First Derivatives and payment</p> <p>24 due to" holdings -- "to holding," sorry.</p> <p>25 By "payment due to holding," were you</p>

<p style="text-align: right;">Page 274</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 Q. And you can see it?</p> <p>3 A. Yes, I do.</p> <p>4 Q. Please take a minute to review.</p> <p>5 MR. BAKER: For the record,</p> <p>6 Exhibit 55 is GLBR 185174 and an attachment which</p> <p>7 is GLBR 185175.</p> <p>8 Q. My first question will be is this an</p> <p>9 e-mail from Mr. Greenbaum to Mr. Meyer attaching</p> <p>10 an invoice?</p> <p>11 A. It is.</p> <p>12 Q. In Mr. Greenbaum's e-mail he writes,</p> <p>13 "Please take note this is the first month in</p> <p>14 which the fee per million has been split."</p> <p>15 A. I see that.</p> <p>16 Q. And if you look down to the</p> <p>17 attachment, is this an invoice from FXCM to Effex</p> <p>18 for order flow for February 2013?</p> <p>19 A. It looks that way, yes.</p> <p>20 Q. And I'll note that it appears to say</p> <p>21 January 2013 in the e-mail, but based on the --</p> <p>22 or sorry.</p> <p>23 It says January 2013 in the invoice,</p> <p>24 but based on the e-mail, the date of the e-mail,</p> <p>25 the invoice number or the date of the invoice,</p>	<p style="text-align: right;">Page 276</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 the dollar/yen currency payor?</p> <p>3 A. Yes, that one I know I had</p> <p>4 discussions with him.</p> <p>5 Q. And who else was involved in those</p> <p>6 discussions, if anyone?</p> <p>7 A. William and because we made this</p> <p>8 final, I'm sure I had -- I'm sure I had also had</p> <p>9 to negotiate with that Drew but William and Drew.</p> <p>10 Q. Was trading in the dollar/yen</p> <p>11 currency payor less profitable for Effex on a per</p> <p>12 million basis at this time --</p> <p>13 A. Yes.</p> <p>14 Q. -- compared to all other currencies?</p> <p>15 A. Yes, it was.</p> <p>16 Q. And did you inform Mr. Ahdout or</p> <p>17 anyone -- or Mr. Niv that trading in this payor</p> <p>18 was less profitable for Effex on a per million</p> <p>19 basis at this time?</p> <p>20 A. Yes. I would have informed them that</p> <p>21 I'm not going to provide liquidity to the</p> <p>22 dollar/yen, because I lose money given the fees I</p> <p>23 pay.</p> <p>24 Q. And did Effex and FXCM execute or</p> <p>25 amend a services agreement to reflect a different</p>
<p style="text-align: right;">Page 275</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 does it appear that January 2013 is a typo?</p> <p>3 A. I don't know what the -- the invoice</p> <p>4 number says -- has an 02 referring to February</p> <p>5 so... And the title says February, so it appears</p> <p>6 to be a February invoice.</p> <p>7 Q. Okay.</p> <p>8 A. Yes, I believe the January is a typo</p> <p>9 and it should say February.</p> <p>10 Q. Okay. And under -- or in the invoice</p> <p>11 in the first column, do you see where it says</p> <p>12 "JPY/USD"?</p> <p>13 A. Yes.</p> <p>14 Q. And that's the dollar/yen currency</p> <p>15 payor?</p> <p>16 A. That is the dollar/yen currency</p> <p>17 payor.</p> <p>18 Q. And so, in this invoice, was FXCM</p> <p>19 charging Effex \$3 per million for order flow in</p> <p>20 the dollar/yen currency payor and \$16 per million</p> <p>21 for order flow in all other currency payors?</p> <p>22 A. That is correct.</p> <p>23 Q. Did you have any discussions with</p> <p>24 Mr. Ahdout or anyone at FXCM about Effex paying a</p> <p>25 reduced rate of \$3 per million on order flow for</p>	<p style="text-align: right;">Page 277</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 rate of payment for trading in the dollar/yen</p> <p>3 payor compared to all other currencies?</p> <p>4 A. I don't know if we made an amendment.</p> <p>5 I'm not sure if there's a formal amendment for</p> <p>6 it.</p> <p>7 Q. Are you aware of any other formal</p> <p>8 agreement between Effex and FXCM that documents</p> <p>9 this new rate?</p> <p>10 A. Just the Services Agreement and if</p> <p>11 there are any amendments to the Services</p> <p>12 Agreement in their e-mails so...</p> <p>13 Q. And does this match your recollection</p> <p>14 that Effex started paying a reduced rate for</p> <p>15 dollar/yen currency payor around February 2013?</p> <p>16 A. Yes, this matches my recollection.</p> <p>17 Q. Okay. I'm going to show you another</p> <p>18 document.</p> <p>19 (Deposition Exhibit 56, e-mail string</p> <p>20 GLBR_00185323 & GLBR_00185324 marked</p> <p>21 Confidential, was marked for identification.)</p> <p>22 Q. Exhibit 56. Please let me know when</p> <p>23 you can see it.</p> <p>24 A. I can see it.</p> <p>25 Q. Okay. And please take a minute to</p>

70 (Pages 274 - 277)

<p style="text-align: right;">Page 278</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 review and let me know when you're ready.</p> <p>3 MR. BAKER: For the record,</p> <p>4 Exhibit 56 is GLBR 185323.</p> <p>5 A. I'm ready.</p> <p>6 Q. And is this an e-mail from Baruch</p> <p>7 Greenbaum to Aaron Harding, Alexan Kartalyan and</p> <p>8 copying Chris Meyer?</p> <p>9 A. Yes, it is.</p> <p>10 Q. And looking at -- and I'll note that</p> <p>11 you do not appear to be on the e-mails in this</p> <p>12 chain.</p> <p>13 Looking at the bottom of Page 1, the</p> <p>14 e-mail from Baruch Greenbaum at 2:35 p.m.</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. And he writes, "Chris, what will the</p> <p>18 new fee rate per million per volume from EUR/USD</p> <p>19 for June and going forward?"</p> <p>20 And above Mr. Meyer responds, "It's</p> <p>21 \$6 per million for June and beyond."</p> <p>22 A. Yes.</p> <p>23 Q. Was it your understanding that as of</p> <p>24 June 2013, Effex would pay only \$6 per million on</p> <p>25 euro/dollar trading volume in its order flow</p>	<p style="text-align: right;">Page 280</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 Q. Were you aware of any?</p> <p>3 A. I don't recall any. I don't have all</p> <p>4 my amendments in front of me.</p> <p>5 Q. And were you aware of any formal</p> <p>6 agreement between Effex and FXCM documenting this</p> <p>7 new rate per million for the euro/dollar?</p> <p>8 A. If there would have been one, it</p> <p>9 would have been an amendment to the Services</p> <p>10 Agreement, if there's one.</p> <p>11 Q. But you're not specifically aware of</p> <p>12 any amendment; is that fair?</p> <p>13 A. Not specific -- not specifically</p> <p>14 aware of any amendment, no.</p> <p>15 Q. Okay. I'm going to show you another</p> <p>16 document.</p> <p>17 (Deposition Exhibit 57, e-mail string</p> <p>18 GLBR_00005534 and attachment marked Confidential,</p> <p>19 was marked for identification.)</p> <p>20 Q. This is Exhibit 57. And please let</p> <p>21 me know when you can see it.</p> <p>22 A. I see it.</p> <p>23 Q. Take a minute to review.</p> <p>24 A. I'm ready.</p> <p>25 Q. This is a series of charts and</p>
<p style="text-align: right;">Page 279</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 payments to FXCM?</p> <p>3 A. Yes, that's my recollection.</p> <p>4 Q. And is that something you discussed</p> <p>5 with Mr. Ahdout or Mr. Niv?</p> <p>6 A. That would have been discussed with</p> <p>7 both of them, yes.</p> <p>8 Q. Was trading in the euro/dollar</p> <p>9 currency payor less profitable for Effex on a per</p> <p>10 million basis at this time?</p> <p>11 A. Yes.</p> <p>12 Q. And did you inform Mr. Ahdout and Mr.</p> <p>13 Niv that trading in this payor was less</p> <p>14 profitable for Effex on a per million basis at</p> <p>15 this time?</p> <p>16 A. Yes, I would have informed him as I</p> <p>17 did dollar/yen. But they already knew that.</p> <p>18 Every other LP probably felt and did the same</p> <p>19 thing.</p> <p>20 Q. Did Effex and FXCM execute or amend</p> <p>21 any services agreement to reflect a different</p> <p>22 rate of payment for trading in the euro/dollar</p> <p>23 payor?</p> <p>24 A. I don't know -- I don't know if an</p> <p>25 amendment was made or wasn't made.</p>	<p style="text-align: right;">Page 281</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 numbers in this e-mail. I'm not going to be</p> <p>3 asking you about specifics at this time, but feel</p> <p>4 free to review the document as needed.</p> <p>5 MR. BAKER: For the record,</p> <p>6 Exhibit 57 is GLBR 5534 and an attachment which</p> <p>7 is GLBR 5535.</p> <p>8 Q. Mr. Dittami, does it appear that the</p> <p>9 attachment to Mr. Milazzo's e-mail appears to be</p> <p>10 the same attachment from your e-mail that he's</p> <p>11 forwarding?</p> <p>12 A. I can't compare line by line, but</p> <p>13 it's similar information.</p> <p>14 Q. So there's only one attachment shown</p> <p>15 here, which is the attachment to Mr. Milazzo's</p> <p>16 e-mail. Take a step back.</p> <p>17 Is this an e-mail from Mr. Milazzo to</p> <p>18 Raelyn Tsai forwarding an e-mail from you?</p> <p>19 MR. PAYKIN: Objection to the extent</p> <p>20 that you can -- I mean, you don't know it; if you</p> <p>21 can tell by looking at it. The document speaks</p> <p>22 for itself.</p> <p>23 A. It looks like a forward from Evan of</p> <p>24 it. Yes, it looks like a forward of an e-mail</p> <p>25 from me, yes.</p>

<p style="text-align: right;">Page 294</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 your e-mail the end of the second paragraph in</p> <p>3 your e-mail. And the last part of that line you</p> <p>4 write, "It brings up questions you may not want</p> <p>5 brought up."</p> <p>6 Do you know what you were referring</p> <p>7 to here?</p> <p>8 A. Let me find it again.</p> <p>9 I don't know what I'm referring to</p> <p>10 here. But I don't want my share being shown to</p> <p>11 any other LP. I know how other LPs will respond</p> <p>12 to seeing me having my share. They will not be</p> <p>13 happy. It would not be a good thing for me. It</p> <p>14 would not be a good thing for FXCM.</p> <p>15 Q. And why would that not be a good</p> <p>16 thing for FXCM?</p> <p>17 A. You have to have good relationship</p> <p>18 with all of your liquidity providers. No one</p> <p>19 likes to be told they aren't winning. It would</p> <p>20 be embarrassing to my two ex-employees, Citigroup</p> <p>21 and Sun Trading that I was taking their loss.</p> <p>22 That does not bode well for positive</p> <p>23 relationships in business.</p> <p>24 Q. Okay. I'm going to show you another</p> <p>25 document.</p>	<p style="text-align: right;">Page 296</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 e-mail together.</p> <p>3 Q. Okay. Would you agree that this</p> <p>4 appears to be a transcript of an instant</p> <p>5 messaging conversation between yourself and Ms.</p> <p>6 Muchinsky?</p> <p>7 A. I would agree that I see a transcript</p> <p>8 of an instant message conversation. And it was</p> <p>9 between me and Ms. Muchinsky, yes.</p> <p>10 Q. Okay, thank you.</p> <p>11 I'm going to ask you and you might</p> <p>12 have to read through the conversation a little</p> <p>13 bit.</p> <p>14 But just what is the context for the</p> <p>15 conversation you were having with Ms. Muchinsky?</p> <p>16 Are you referring to an e-mail that was sent out</p> <p>17 to some or all of FXCM's liquidity providers?</p> <p>18 A. I have to read this whole thing. I</p> <p>19 have...</p> <p>20 Q. Please go ahead.</p> <p>21 A. It's very hard to interpret. But</p> <p>22 generically it seems like it's a conversation</p> <p>23 about me asking Trisha if she's communicated with</p> <p>24 liquidity providers about their execution</p> <p>25 quality. That's the best I can glean. It's very</p>
<p style="text-align: right;">Page 295</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 (Deposition Exhibit 60, 10/15/12</p> <p>3 Conversation between John@effexcapital.com and</p> <p>4 pmuchinsky@fxcm.com GLBR_00217369 & GLBR_00217370</p> <p>5 marked Confidential, was marked for</p> <p>6 identification.)</p> <p>7 Q. Please let me know when you can see</p> <p>8 Exhibit 60.</p> <p>9 A. I see Exhibit 60.</p> <p>10 Q. Please take a minute to review this</p> <p>11 document.</p> <p>12 MR. BAKER: For the record,</p> <p>13 Exhibit 60 is GLBR 217369.</p> <p>14 Q. Mr. Dittami just let me know when</p> <p>15 you're ready.</p> <p>16 A. I'm ready.</p> <p>17 Q. Is this an e-mail from you to Ms.</p> <p>18 Muchinsky, which includes a transcript from an</p> <p>19 instant messaging conversation between yourself</p> <p>20 and Ms. Muchinsky?</p> <p>21 A. This is in an e-mail. I see an</p> <p>22 e-mail. I see a transcript. I do not know why</p> <p>23 they're sitting on top of each other. I don't</p> <p>24 recognize the format of -- I'm confused by the</p> <p>25 format of the instant message transcript in an</p>	<p style="text-align: right;">Page 297</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 broken and out of context, but that's all I can</p> <p>3 glean from this.</p> <p>4 Q. To your knowledge, did FXCM have a</p> <p>5 system to determine how to route orders in case</p> <p>6 of a tie between the prices offered by different</p> <p>7 liquidity providers?</p> <p>8 A. To my knowledge, they had guidelines</p> <p>9 for what dictated who won ties, who won ties</p> <p>10 between liquidity providers.</p> <p>11 Q. Have you heard those guidelines</p> <p>12 referred to as a "priority system"?</p> <p>13 A. I have not heard that name used.</p> <p>14 Maybe FXCM uses it. I know there are guidelines</p> <p>15 as to LP that I had to follow or other LPs would</p> <p>16 have to follow in order to win ties, which is</p> <p>17 prioritized or priority, similar words.</p> <p>18 Q. And did you provide input to FXCM on</p> <p>19 allowing Effex or other liquidity providers to</p> <p>20 win ties with other liquidity providers?</p> <p>21 A. I would have provide input to</p> <p>22 whenever it was to my benefit. I'd let FXCM know</p> <p>23 if other liquidity providers I was competing with</p> <p>24 were not following good execution and I would, of</p> <p>25 course, for my business interest argue for any</p>

75 (Pages 294 - 297)

<p style="text-align: right;">Page 298</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 implication, insinuation or otherwise if anyone</p> <p>3 else would win ties other than Effex, unless</p> <p>4 their execution quality is consistent with that.</p> <p>5 Yes, very important for me to regularly ensure</p> <p>6 that I am the best execution and winning ties for</p> <p>7 that policy accordingly.</p> <p>8 Q. And, to your knowledge, did Effex</p> <p>9 have the ability to win all ties with other</p> <p>10 liquidity providers at some point during the 2010</p> <p>11 to 2014 time frame?</p> <p>12 A. Yes. We had the ability to win ties</p> <p>13 upon meeting the standards that were outlined,</p> <p>14 yes.</p> <p>15 Q. And did the ability to win ties apply</p> <p>16 across all currency payors that Effex traded with</p> <p>17 FXCM?</p> <p>18 A. The ability to win ties did not</p> <p>19 expand across all currency payors at FXCM.</p> <p>20 Q. Which currency payors did it apply</p> <p>21 to, if you remember?</p> <p>22 A. It would depend on my performance and</p> <p>23 standards and FXCM's decisions. There were times</p> <p>24 other liquidity providers won ties. I think</p> <p>25 dollar/yen, maybe euro/dollar, maybe gold. I</p>	<p style="text-align: right;">Page 300</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 have quants and analysts anymore.</p> <p>3 Q. Were there any documents that you</p> <p>4 received from FXCM showing when and for what</p> <p>5 currency payors Effex had the ability to win all</p> <p>6 ties?</p> <p>7 A. No, I don't recall. I recall</p> <p>8 discussions when I wasn't winning ties, but I</p> <p>9 don't recall documents specific to it.</p> <p>10 Q. Was there any other way that you were</p> <p>11 able to discern whether Effex was winning ties on</p> <p>12 the currency payor, other than doing the data</p> <p>13 analysis that you referred to?</p> <p>14 A. No, it was just data analysis, very</p> <p>15 obvious. We were winning a lot of volume and</p> <p>16 stopped winning a lot of volume. We're not</p> <p>17 winning ties. We create a very tight price and</p> <p>18 you look at volume and we're not winning ties.</p> <p>19 It's data driven.</p> <p>20 Q. Is it your experience that as a</p> <p>21 general matter if you were not winning ties with</p> <p>22 respect to a certain currency payor, you would be</p> <p>23 -- you would not be winning as much volume with</p> <p>24 respect to that currency payor?</p> <p>25 MR. DAHAN: Objection.</p>
<p style="text-align: right;">Page 299</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 can't recall, exactly. Those are ones that come</p> <p>3 to mind as ones that Effex did not win ties on</p> <p>4 for periods of times.</p> <p>5 Q. In that period of time from 2010 to</p> <p>6 2014, did Effex have the ability to win ties with</p> <p>7 respect to a majority of the currency payors that</p> <p>8 it traded with FXCM?</p> <p>9 MR. PAYKIN: Objection.</p> <p>10 Q. You can answer.</p> <p>11 A. The majority of the currency payors</p> <p>12 minus the ones and times that I just mentioned</p> <p>13 that I would have to go back and see what times</p> <p>14 we did and didn't win ties.</p> <p>15 Q. And would there be records of that</p> <p>16 reflected somewhere within Effex?</p> <p>17 A. Not now, no; when Effex was in</p> <p>18 business, yeah.</p> <p>19 Q. Was there any sort of --</p> <p>20 A. (Inaudible.)</p> <p>21 Q. Sorry, I didn't catch that last part.</p> <p>22 A. There wouldn't have been formal</p> <p>23 records. I would have to have quants and</p> <p>24 analysts go try scroll through data to go figure</p> <p>25 it out and create a historical record. I don't</p>	<p style="text-align: right;">Page 301</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 A. Yes, if you did not win ties, you win</p> <p>3 less volume.</p> <p>4 Q. Okay. I'm going to show you another</p> <p>5 document.</p> <p>6 (Deposition Exhibit 61, e-mail string</p> <p>7 GLBR_00186222 to GLBR_00186224 marked</p> <p>8 Confidential, was marked for identification.)</p> <p>9 A. Okay, Document 60 has appeared.</p> <p>10 MR. DAHAN: Is this 61?</p> <p>11 MR. BAKER: Yes, this will be 61.</p> <p>12 A. I knew it would be worth checking it</p> <p>13 each time.</p> <p>14 MR. DAHAN: Don't worry. You already</p> <p>15 won the award for most exhibits in a deposition</p> <p>16 so...</p> <p>17 A. Oh; deposition 61.</p> <p>18 Q. Okay, you have it up?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Please take a minute to</p> <p>21 review.</p> <p>22 MR. BAKER: For the record,</p> <p>23 Exhibit 61 is GLBR 186222.</p> <p>24 Q. And I'm just going to -- feel free to</p> <p>25 review the entirety of this document. I'm just</p>

<p style="text-align: right;">Page 346</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 2010.</p> <p>3 Do you recall that?</p> <p>4 A. Yes.</p> <p>5 Q. And both of those had in there the</p> <p>6 agreement that Effex agreed to pay \$21 per</p> <p>7 million flow.</p> <p>8 Do you recall that?</p> <p>9 A. Yes, I do.</p> <p>10 Q. Okay. Now, to -- and you were the</p> <p>11 owner of Effex at the time, correct?</p> <p>12 A. Yes, that's correct.</p> <p>13 Q. You would know --</p> <p>14 MR. BAKER: Which time?</p> <p>15 MR. DAHAN: 2010.</p> <p>16 Q. Correct?</p> <p>17 A. That is correct.</p> <p>18 Q. And so you would know what Effex</p> <p>19 agreed to, correct?</p> <p>20 A. Correct.</p> <p>21 Q. Did Effex agree to pay FXCM</p> <p>22 70 percent of Effex's profits?</p> <p>23 A. No.</p> <p>24 Q. Did it ever do that?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 348</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 Q. Right. And Counsel for Plaintiffs</p> <p>3 went through some chosen sentences in here.</p> <p>4 Do you recall that?</p> <p>5 A. I -- I recall going through</p> <p>6 questions, but you'll --</p> <p>7 Q. Yeah.</p> <p>8 A. -- need to refresh my memory.</p> <p>9 Q. Let me go through he, obviously,</p> <p>10 didn't ask you about.</p> <p>11 It says -- on Page 3 of the document,</p> <p>12 there's a paragraph saying, "At the time of its</p> <p>13 formation, John Dittami owned a hundred percent</p> <p>14 of the membership."</p> <p>15 Do you see that?</p> <p>16 A. I see that.</p> <p>17 Q. And it describes certain people who</p> <p>18 had small other interest in Effex?</p> <p>19 A. I see that.</p> <p>20 Q. And then it says, "None of the</p> <p>21 foregoing persons were ever affiliated with</p> <p>22 FXCM."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Is that a true statement to your</p>
<p style="text-align: right;">Page 347</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 Q. Did FXCM demand that Effex pay its</p> <p>3 70 percent of profits?</p> <p>4 A. No.</p> <p>5 Q. Did Effex enter into a profit sharing</p> <p>6 agreement with FXCM?</p> <p>7 A. No. You were shown some documents</p> <p>8 earlier where you reported that for certain</p> <p>9 periods of time that Effex was -- had a P&L of</p> <p>10 over \$35.</p> <p>11 Do you remember that?</p> <p>12 A. There were occasions --</p> <p>13 Q. You saw some documents.</p> <p>14 A. There were occasions where it was \$35</p> <p>15 per million in some of those documents.</p> <p>16 Q. And did Effex --</p> <p>17 A. On occasion.</p> <p>18 Q. And did Effex agree to pay more than</p> <p>19 \$21 when it did that?</p> <p>20 A. No.</p> <p>21 Q. You were shown -- let me see what</p> <p>22 exhibit that was. It was early in the day. Hold</p> <p>23 on -- I think it was Exhibit 5. If we can go</p> <p>24 back to Exhibit 5.</p> <p>25 A. I have Exhibit 5 open.</p>	<p style="text-align: right;">Page 349</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 knowledge?</p> <p>3 A. That's a true statement to my</p> <p>4 knowledge, yes.</p> <p>5 Q. Okay. And it says, "Since March of</p> <p>6 2010, Effex Capital hired, approximately, 30</p> <p>7 full-time employees, consultants, independent</p> <p>8 contractors."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Did Mr. Niv decide who Effex hired?</p> <p>12 A. No.</p> <p>13 MR. BAKER: Objection to form.</p> <p>14 Q. Did William Ahdout decide those</p> <p>15 hirings?</p> <p>16 MR. BAKER: Objection to form.</p> <p>17 A. No.</p> <p>18 Q. Who made those hiring decisions?</p> <p>19 A. Myself and/or the managers who the</p> <p>20 hire would report to.</p> <p>21 Q. Anybody from FXCM?</p> <p>22 A. No.</p> <p>23 Q. Okay. If you go to Page 4, there's a</p> <p>24 conclusion.</p> <p>25 Do you see that?</p>

<p style="text-align: right;">Page 358</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 But I have to look closely.</p> <p>3 Q. If we can go to Paragraph 60.</p> <p>4 A. Okay.</p> <p>5 Q. Right. If you go to Paragraph 60,</p> <p>6 you identified certain statements that were</p> <p>7 posted by the NFA, correct?</p> <p>8 A. Correct.</p> <p>9 Q. And then you identify in Paragraph 61</p> <p>10 additional statements posted by the NFA.</p> <p>11 You see that?</p> <p>12 A. Yes.</p> <p>13 Q. And then you say, in Paragraph 62,</p> <p>14 "The foregoing statements in Paragraph 60A</p> <p>15 through D and 61A through E are above all false</p> <p>16 and defamatory."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Did you believe that those statements</p> <p>20 by the NFA were false?</p> <p>21 A. I believe the statements by the NFA</p> <p>22 were false.</p> <p>23 Q. I'm going to focus on 60B, okay.</p> <p>24 Now --</p> <p>25 A. Okay.</p>	<p style="text-align: right;">Page 360</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 flow directed to Effex and paid rebates to FXCM</p> <p>3 that amounted at times as much as 70 percent of</p> <p>4 Effex's profits."</p> <p>5 Was that true?</p> <p>6 A. That's not true.</p> <p>7 Q. Do you remember submitting to the</p> <p>8 CFTC --</p> <p>9 A. I want to be -- I want to be</p> <p>10 specific.</p> <p>11 Q. Go ahead.</p> <p>12 A. In exchange for order flow -- oh,</p> <p>13 yeah, no, that's false. That -- D was not true.</p> <p>14 Q. Do you, in fact, recall an accounting</p> <p>15 done by an accounting firm hired by Effex -- an</p> <p>16 auditing firm by Effex and submitted to the CFTC</p> <p>17 about what percentage of its revenue after</p> <p>18 expenses, ultimately, went to Effex in the form</p> <p>19 of, let's say, order flow?</p> <p>20 A. Yes.</p> <p>21 MR. PAYKIN: That went to FXCM.</p> <p>22 Q. To FXCM in the form of order flow?</p> <p>23 A. Yes.</p> <p>24 Q. Do you recall that audit showing</p> <p>25 anything close to 70 percent being provided to</p>
<p style="text-align: right;">Page 359</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 Q. -- "Effex's relationship with FXCM</p> <p>3 amounted to a dealing desk model"; did you agree</p> <p>4 with the NFA on that?</p> <p>5 A. No.</p> <p>6 Q. Why? Why not?</p> <p>7 A. The dealing desk model assumed that</p> <p>8 the retail definition of dealing desk model is</p> <p>9 that you would be on the other side of, you know,</p> <p>10 customers made money, you made money. If</p> <p>11 customers lost -- I'm sorry. If customers made</p> <p>12 money, you lost money. If they lost money, you</p> <p>13 made money.</p> <p>14 I can't speak to what FXCM but</p> <p>15 Effex's P&L had nothing to do with it. I could</p> <p>16 make money, customers could make money, I could</p> <p>17 lose money, customers could make money. There</p> <p>18 was no -- I didn't have a mirrored position to</p> <p>19 the customer's.</p> <p>20 Q. It says, "Effex was controlled by</p> <p>21 FXCM."</p> <p>22 Was that a true statement by the NFA?</p> <p>23 A. That was a false statement by the</p> <p>24 NFA.</p> <p>25 Q. It says, "In exchange for the order</p>	<p style="text-align: right;">Page 361</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 FXCM during the 2010 to '14 period?</p> <p>3 A. I can't remember exactly. In 2010,</p> <p>4 it was in the 60s. But after that, no, the</p> <p>5 percentages continued to decline each year.</p> <p>6 Q. In fact, you recall in 2014 it was</p> <p>7 somewhere in the 20 percent?</p> <p>8 MR. PAYKIN: Don't guess.</p> <p>9 A. That sounds reasonable.</p> <p>10 MR. PAYKIN: Don't guess if you don't</p> <p>11 remember, John.</p> <p>12 A. I don't have the document in front of</p> <p>13 me, no.</p> <p>14 Q. And 61A, if you go to 61A, the NFA</p> <p>15 stated that, "FXCM provided Effex access to data</p> <p>16 for which Effex could derive customer order and</p> <p>17 position information."</p> <p>18 Was that a true statement?</p> <p>19 A. No.</p> <p>20 Q. You mentioned earlier that there was</p> <p>21 also an injunction that you sought of the NFA in</p> <p>22 that case.</p> <p>23 Do you remember that?</p> <p>24 A. Yes.</p> <p>25 Q. Do you recall submitting affidavits</p>

<p style="text-align: right;">Page 366</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 A. Yes.</p> <p>3 Q. You say, "Neither FXCM nor any of its</p> <p>4 principals ever owned any part of Effex and Effex</p> <p>5 never paid FXCM for any business Effex transacted</p> <p>6 with non-FXCM counterparties."</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Is that a true statement?</p> <p>10 A. Yes.</p> <p>11 Q. "In addition, there is no</p> <p>12 relationship or correlation between Effex's</p> <p>13 profits and losses and FXCM's customers profits</p> <p>14 and losses as is the case with the dealing desk</p> <p>15 model."</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Was that a true statement?</p> <p>19 A. Yes.</p> <p>20 Q. You say at the end of this paragraph,</p> <p>21 "Also unlike the dealing desk, Effex did not have</p> <p>22 knowledge, customer positions, stops, limits or</p> <p>23 resting orders nor did Effex derive this</p> <p>24 information from any source."</p> <p>25 Was that a true statement?</p>	<p style="text-align: right;">Page 368</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 Q. Whose analysis was that?</p> <p>3 A. It would also be from my quants.</p> <p>4 Q. Do you have any reason to doubt that</p> <p>5 analysis?</p> <p>6 A. No.</p> <p>7 Q. Did Effex provide liquidity to other</p> <p>8 FX companies other than FXCM?</p> <p>9 A. Yes.</p> <p>10 Q. About how many?</p> <p>11 A. I think there are 30 counterparts in</p> <p>12 total over the years, roughly.</p> <p>13 Q. Did FXCM tell Effex it's not allowed</p> <p>14 to do business with other counterparties?</p> <p>15 A. No.</p> <p>16 Q. I want to go to -- you also submitted</p> <p>17 a reply affidavit in connection with that</p> <p>18 injunction motion. Let me load that up as</p> <p>19 Exhibit 72. Let me know when you see that.</p> <p>20 (Deposition Exhibit 72, Reply</p> <p>21 Affidavit of John Dittami in Effex Capital and</p> <p>22 John Dittami v. NFA, was marked for</p> <p>23 identification.)</p> <p>24 MR. ENNIS: It should be up now.</p> <p>25 A. Okay. Okay, I have 72 open.</p>
<p style="text-align: right;">Page 367</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 A. Yes.</p> <p>3 Q. Did you believe that Effex's superior</p> <p>4 execution created an economic advantage for</p> <p>5 FXCM's customers?</p> <p>6 MR. BAKER: Objection to form.</p> <p>7 A. Yes.</p> <p>8 Q. If you go to Paragraph 33?</p> <p>9 A. Okay. I'm on Paragraph 33.</p> <p>10 Q. You say in B, "A transaction cost</p> <p>11 analysis focusing on rejections of trade</p> <p>12 execution requests shows that Effex's inclusion</p> <p>13 as a liquidity provider of FXCM generated 80</p> <p>14 million of value for FXCM."</p> <p>15 Do you recall that? Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Whose transaction cost analysis?</p> <p>18 A. This is the transaction cost analysis</p> <p>19 my quants would have completed.</p> <p>20 Q. You then say in C, "A transaction</p> <p>21 cost analysis focusing on bill trade execution</p> <p>22 requests shows Effex reduced FXCM's customer</p> <p>23 slippage by more than \$110 million."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 369</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 Q. Have you seen this document before?</p> <p>3 A. Yes.</p> <p>4 Q. Is this a reply affidavit that you</p> <p>5 submitted in August of 2017 in connection with</p> <p>6 your lawsuit against the NFA?</p> <p>7 A. It's the reply affidavit I've</p> <p>8 submitted, yes. It's dated August 17th. Hold</p> <p>9 on.</p> <p>10 Q. And, again, you made this under oath?</p> <p>11 A. I made this under oath; August 21st.</p> <p>12 Q. If you go to Paragraph 3.</p> <p>13 A. Yes, I'm there.</p> <p>14 Q. You say at the last sentence, "At all</p> <p>15 times Effex and FXCM maintained separate books</p> <p>16 and records and never commingled funds."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Is that a true statement?</p> <p>20 A. Yes.</p> <p>21 Q. If you go to Paragraph 15.</p> <p>22 A. I'm on Paragraph 15.</p> <p>23 Q. Are you aware that this is a</p> <p>24 securities class action, this lawsuit?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 370</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 Q. Alright. Are you aware that the</p> <p>3 beginning of the class period in this case is</p> <p>4 March 2012?</p> <p>5 A. I don't know. I don't know that</p> <p>6 detail.</p> <p>7 Q. If you go to Paragraph 15 of your</p> <p>8 affidavit or reply affidavit in the middle there.</p> <p>9 You say, "Effex did not share space with FXCM</p> <p>10 since early 2011."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Is that a true statement?</p> <p>14 A. Yes.</p> <p>15 Q. You say, "Effex did not use FXCM's</p> <p>16 prime of prime relationship since the summer of</p> <p>17 2010."</p> <p>18 Was that a true statement?</p> <p>19 A. Yes.</p> <p>20 Q. You said, "Effex paid back all prime</p> <p>21 of prime margin funding to FXCM by the summer of</p> <p>22 2010."</p> <p>23 Was that a true statement?</p> <p>24 A. Yes.</p> <p>25 Q. You say, "Effex did not use previous</p>	<p style="text-align: right;">Page 372</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 say, "In stating that Effex's use of hold timer</p> <p>3 was egregious due to lack of asymmetrical</p> <p>4 tolerance configurations, NFA ignored that. In</p> <p>5 2010, Effex only used hold timer seven days,</p> <p>6 rarely utilized if thereafter, infrequently used</p> <p>7 it with tolerance configurations and assure</p> <p>8 asymmetrical price improvements to FXCM's</p> <p>9 customer's benefit and Effex's detriment."</p> <p>10 Was that a true statement?</p> <p>11 A. Yes.</p> <p>12 Q. You then say, "Again, Effex's profits</p> <p>13 and loss is not and was never correlated to any</p> <p>14 customer's profit and loss including but not</p> <p>15 limited to FXCM."</p> <p>16 Was that a true statement?</p> <p>17 A. Yes.</p> <p>18 Q. And you then finish with, "In</p> <p>19 addition, Effex did not have access to FXCM's</p> <p>20 customer resting, stop limits" and positions --</p> <p>21 "or positions and was only rather trade when</p> <p>22 offered best price."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. In Paragraph 17 you say, "FXCM</p>
<p style="text-align: right;">Page 371</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 quote in the reference manner since 2010."</p> <p>3 Was that a true statement?</p> <p>4 A. Yes.</p> <p>5 Q. Are you aware that FXCM did not even</p> <p>6 become a public company until December of 2010?</p> <p>7 A. I am aware that they didn't become</p> <p>8 public to the end. You just told me December. I</p> <p>9 wouldn't know the exact month.</p> <p>10 Q. Okay. It says, "Effex reimbursed</p> <p>11 FXCM for every dime it expended in developing the</p> <p>12 trading system by the summer of 2010."</p> <p>13 Was that a true statement?</p> <p>14 A. Yes.</p> <p>15 Q. You say, "Effex's payments to FXCM</p> <p>16 were based on per million dollar order flow per</p> <p>17 contract which were paid regardless of whether</p> <p>18 Effex mailed a profit."</p> <p>19 Was that a true statement?</p> <p>20 A. Yes.</p> <p>21 Q. You say, "Moreover, as CFTC stated,</p> <p>22 such payments ceased in 2014."</p> <p>23 Was that a true statement?</p> <p>24 A. Yes.</p> <p>25 Q. In Paragraph 16, in the middle you</p>	<p style="text-align: right;">Page 373</p> <p>1 CONFIDENTIAL - JOHN DITTAMI</p> <p>2 provided Goldman Sachs, Citibank and Commerce</p> <p>3 Bank pricing advantages through May 2010."</p> <p>4 Was that a true statement?</p> <p>5 A. Yes.</p> <p>6 Q. Do you know if FXCM ever had a pay</p> <p>7 for flow relationship with anyone other than</p> <p>8 Effex?</p> <p>9 A. I don't know. I believe they did</p> <p>10 but...</p> <p>11 Q. Okay.</p> <p>12 A. Actually, I believe they didn't for</p> <p>13 the period involved.</p> <p>14 Q. You were shown at the beginning of</p> <p>15 your deposition a CFTC transcript of a deposition</p> <p>16 you gave in April 2016.</p> <p>17 A. Okay.</p> <p>18 Q. Those are Exhibits 1 and 2 of your</p> <p>19 deposition today?</p> <p>20 A. I remember seeing them, yep.</p> <p>21 Q. Okay. You testified in your</p> <p>22 deposition as follows.</p> <p>23 You were asked by the CFTC, "Did the</p> <p>24 EES divisions cease to be a division of FXCM</p> <p>25 because it was a concern that it could be seen as</p>